

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SAJ-01 IO-11 ACDA-05 CIAE-00 DODE-00

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WAADC 2049

AMEMBASSY BERLIN UNN

USEC BRUSSELS 1091

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO

AMEMBASSY PARIS

C O N F I D E N T I A L USBERLIN 0401

E.O.11652: GDS

TAGS: PGOV, PFOR, EEC, WB, GW

SUBJECT: BERLIN AND DIRECT ELECTIONS TO
EUROPEAN PARLIAMENT

REF: BONN 3348

1. BRITISH LEGAL ADVISER MENTIONED TO US LAST WEEK
HIS AUTHORITIES INTEREST IN SEEING FRG
STATEMENT ON BERLIN CONVERTED INTO " PROTOCOL" AND
GAVE AS REASONS AVOIDANCE OF TYPE OF LITIGATION
DESCRIBED PARA 5 REFTEL. WE EXPRESSED SOME DOUBT
ABOUT PRACTICALITY OF THIS CONCERN AND PROPRIETY
OF FORMAL PROTOCOL SINCE IT WOULD SEEM TO MARK
DEPARTURE FROM TREATMENT OF BERLIN IN EARLIER EC
TREATIES AND MIGHT BE CONSTRUED AS INDICATING UNDUE
ALLIED NERVOUSNESS ABOUT CITY'S RELATIONS TO EC.
BRITISH LEGAL ADVISER THEN EXPLAINED THAT BRITISH
ARE LESS INTERESTED IN HAVING DOCUMENT EXPRESS
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EXPLICIT FORMAL AGREEMENT OF NINE EC STATES THAN

IN HAVING FRG DECLARATION INCONTESTABLY INTEGRAL
PART OF CONVENTION, HE SAID THAT BRITISH ENVISAGED
THIS BEING DONE IN SUCH MANNER AS
FRG DECLARATION IWHT RESPECT TO TREATY
OF ROME.

2. THERE MAY, THEREFORE, BE SOMETHING OF A
TERMINOLOGICAL FOG OBSCURING BASIC AGREEMENT. WE
UNDERSTAND THA EC TREATIES , INCLUDING TREATY OF
ROME, NORMALLY HAVE TWO TYPES OF EXTRA DOCUMENTS
THAT ARE NONETHELESS INTEGRAL PARTS OF TOTAL FINAL
PACKAGE. THESE ARE " PROTOCOALS" , WHICH NORMALLY
BEGIN BY STATING THAT THE VARIUS GOVERNMENTS OF
THE EC HAVE AGREED ON SOMETHING, AND " DECLARATIONS"
IN FINAL ACT, WHICH CAN BE UNILATERAL STATEMENTS
OF ONE PARTY BUT WHICH, BY THEIR INCLUSION IN
FINAL ACT, AR IMPLICITLY ACCEPTED BY OTHER PARTIES.
FINAL ACT OF TREATY OF ROME, FOR EXAMPLE, INCLUDES
STATEMENT THAT " THE CONFERENCE FURTHER TOOK NOTE
OF THE DECLARATONS LISTED BELOW AND ANNEXED TO
THIS ACT:....2. A DECLARATION OF THEGOVERNMENT
OF THE FRG ON THE APPLICATION OF THE TREATIES TO
BERLIN." WER FRG DECLARATION SO TREATED IN
CONVENTION ON PARLIAMENTARY ELECTIONS AND LINKED
WITH ALLIED BK/O CONTAINING RESERVATIONS ON DIRECT
ELECTON, WE WOULD THINK UK'S RATHER THEORETICAL
CONCERNS ON THIS POINT WOULD BE SATISFACTORILY
MET.GEORGE

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